

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

ADLIFE MARKETING & COMMUNICATIONS  
COMPANY, INC.

Plaintiff,

- against -

MEIJER STORES LIMITED PARTNERSHIP

Defendant.

Docket No. 3:20-cv-42

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Adlife Marketing & Communications Company, Inc. (“Adlife” or “Plaintiff”) by and through its undersigned counsel, as and for its Complaint against Defendant Meijer Stores Limited Partnership (“Meijer Stores” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of onions, owned and registered by Adlife, an advertising agency specializing in design, digital marketing, print advertising and photograph. Accordingly, Adlife seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in Wisconsin and is registered with the Wisconsin Department of State Division of Corporations.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Adlife is an advertising agency specializing in design digital marketing, print advertising and photography having a usual place of business at 38 Church Street, Pawtucket, Rhode Island 02860.

6. Upon information and belief, Meijer Stores is a foreign limited partnership with a place of business at 3801 North Richmond Street, Appleton, WI 54913. Upon information and belief, Meijer Stores is registered with the Wisconsin State Department of Corporations to do business in Wisconsin.

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff's Ownership of the Photograph**

7. Adlife is copyright holder of onions (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Adlife has all times been the sole owner of all right, title, and interest in and to the Photograph, including the copyright there.

9. The Photograph was registered with United States Copyright Office. See Exhibit A.

#### **B. Defendant's Infringing Activities**

10. Meijer Stores ran the Photograph on their instacat.com page (the "Website"). A screenshot of the Photograph on the Website is attached hereto in Exhibit A.

11. Meijer Stores did not license the Photograph from Plaintiff, nor did Meijer Stores have Plaintiff's permission or consent to publish the Photograph on the Website.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)**  
**(17 U.S.C. §§ 106, 501)**

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Meijer Stores infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Meijer Stores is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Meijer Stores have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

18. Plaintiff further is entitled to its attorney's fees and full costs pursuant to 17 U.S.C. § 505.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Meijer Stores be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded its costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
January 17, 2020

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